

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: RECONSIDERATION OF INTERPRETATION** :  
**OF R.I. GEN. LAWS § 39-26.4-2(5)(ii)** : **DOCKET NO. 5145**

**NOTICE TO SOLICIT COMMENTS**

The Public Utilities Commission (Commission) hereby gives notice that it has opened this docket to reconsider a decision made in Docket No. 5122 (Petition of Nautilus Solar Energy, LLC For Declaratory Judgment on R.I. Gen. Laws § 39-26.4, The Net Metering Act). In its declaratory ruling issued on March 29, 2021 (Declaration), the Commission made a single declaration that “Public housing authorities organized under R.I. Gen. Laws § 45-25 or R.I. Gen. Laws § 45-26 are eligible to enter into multi-municipal collaboratives for the purpose of entering into a net metering financing arrangement.” That declaration is not being reconsidered in this docket.

The Commission also denied a requested interpretation of R.I. Gen. Laws § 39-26.4-2(5)(ii) believing it was being asked to rule on a new question of law.

R.I. Gen. Laws § 39-26.4-2(5)(ii) states in relevant part that any eligible net-metering resource:

Owned and operated by a renewable-generation developer on behalf of *a* public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative through a net-metering financing arrangement shall be treated as an eligible net-metering system and all accounts designated by *the* public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering within an eligible net-metering system site. (Public Entity Net Metering)

The Petitioner had requested the Commission declare that the use of the indefinite article “a” could be interpreted to mean either “one or more” or “one.” According to Petitioner, such a definition would allow, for example, a single eligible net-metering system to be owned and operated on behalf of both a public entity and educational institution. The Commission denied this request for an interpretation based on the limited facts stated in the Petition. That denial has been appealed to the Supreme Court of Rhode Island.

The Commission has subsequently learned that National Grid has been allowing an eligible net metering facility to designate electric accounts to more than one eligible customer, beyond multi-municipal collaboratives. It is possible the Commission will find, through data requests already issued, that the very scenario presented in the Docket No. 5122 Petition, described above, is already in effect. Furthermore, since the issuance of the Declaration, the Commission has received informal requests for clarification and has been advised that its denial of the requested interpretation has resulted in, or will result in, a significant disruption to the renewable energy development market. This was never the Commission’s intent.

In Docket No. 5122, one intervenor advised the Commission in its Motion to Intervene that it has developed projects with multiple public entity credit recipients but did not elaborate on the specific facts in its comments. Additionally, National Grid intervened in this matter, stating that it would, “if permitted to intervene, National Grid expects to offer additional perspective regarding

its interpretation of the Net Metering Act and the Company's Net Metering Provision." Unfortunately, National Grid did not provide any such perspective on its interpretation of its tariffs. Thus, the Commission was unaware, at the time of its decision, that the Declaration being sought was not a new question of law. Consequently, the Commission also was unaware that its ruling had the potential to disrupt a market that had for some period of time already relied upon the interpretation requested by the Petition.

Through this docket, the Commission seeks to understand how the various Public Entity Net Metering arrangements that are operational or under contract are structured, and why, in light of the use of the singular by the legislature, allowing the designation of electric accounts to multiple public entities, educational institutions, hospitals, and nonprofits, other than multi-municipal collaboratives is necessary or important from a legal, policy, or practical perspective. The Commission expects to receive comments from program participants and National Grid.

The Commission requests written comments to be provided by any interested party **on or before May 6, 2021** to provide facts and rationale for the Commission's reconsideration of its prior interpretation of R.I. Gen. Laws § 39-26.4-2(5)(ii). These comments should only apply to Public Entity Net Metering projects where the designated electric accounts are those of public entities, educational institutions, hospitals, nonprofits, or multi-municipal collaboratives that share in a project allocation with another one of the previously listed entities. There is a separate docket (No. 5101) to consider a suggested broader interpretation of the net metering statute that is not under consideration here.

Written comments may be submitted electronically to [luly.massaro@puc.ri.gov](mailto:luly.massaro@puc.ri.gov) and an original and three (3) hard copies shall be provided to Luly Massaro, Public Utilities Commission, 89 Jefferson Boulevard, Warwick, R.I. 02888. Comments will be maintained and will be available for review at the Commission's office. Comments will also be posted on the Commission's website at: <http://www.ripuc.ri.gov/eventsactions/docket/5145page.html> (Click on 5145).

Luly Massaro, Commission Clerk  
April 22, 2021